

REMARKS

The Applicant and Applicant's attorney wish to thank the Examiner for the time spent reviewing the application and preparing the Office Action mailed October 16, 2008. Applicants and the Applicants' attorney also thank the Examiner for the in-person interview granted on March 11, 2009. During the interview, the Examiner and Applicants' attorney discussed proposed amendments to claims 1, 6, and 15 and the references cited in the Office Action. The Examiner noted that the proposed amendments may overcome the art of record subject to further search and consideration upon formal submission.

The Office Action considered and rejected claims 1-20 in light of Houston (U.S. Patent No. 5,318,491), Dyer (U.S. Patent No. 4,828,257), and Mertesdorf (U.S. Patent No. 5,137,501).¹ By this paper, claims 1, 6, and 15 have been amended. Accordingly, following this paper, claims 1-20 are pending, of which claims 1, 6, and 15 are the only independent claims at issue.

Rejections Under 35 U.S.C. § 103

In the Office Action, claims 1-5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Houston in view of Dyer. Applicant submits that claims 1-5 are not obvious in light of Dyer.

Houston discloses a "tug of war machine" that includes a "belt loop which is pulled in a generally horizontal direction." *See* Abstract. The "loop 22" can be "moved under controlled resistance" with the use of "a brake or clutch 32" in "accordance with a predetermined program." Col. 3, ll. 39-49, 60-63. The "resistance placed on the loop can be selected to either provide a static pull or a hand-over-hand tug of war-type pulling exercise." Abstract. The tug of war machine also includes an "upright console 12" which "serves as a stationary support for the mechanical components and electronics" of the machine. Fig. 1; Col. 2, ll. 60-64. The console includes "a control panel 29 which allows selection of the parameters, modes," and "exercise programs" to be used with the machine. Col. 3, ll. 24-27; 60-63. The machine further includes "control circuit 50 which is programmed by the individual 12 by means of controls 29." Col. 4,

¹ Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

ll. 2-4. The machine can also "provide voice output by utilizing synthesized speech which can provide the individual feedback on his or her performance and can encourage the user in the activity." Col. 5, ll. 14-18.

Dyer discloses a "system and method for providing an exercise program at a desired pace throughout each repetition and which applies resistance against a user's efforts based upon user performance history and user demographics." *See* Abstract. In Dyer's system, a remote central computer (e.g. 150) "is connected via an RS 485 communication link 153 through a two-wire cable set to an interactive weight lifting station." Col. 10, ll.64-66; *see also* Figure 5. The central computer "comprises a central control device for communicating information regarding individual users, including their personal demographics and past performance history, as well as [the] exercise program" to the weight station, and further "receives modified information such as updated performance histories, and changed exercise programs from the exercise station for storage in a central memory." Col. 10, ll. 35-44. In this manner, the "system ...automatically produc[es] changes to the user's exercise program in view of the user's performance history and demographic or physiological information." Col. 4, ln. 67 to Col. 5, ln. 2.

The exercise station is equipped with a "central processor unit (CPU) [which] controls the exercise program at each station." Abstract. To perform an exercise program, the central computer "sends...user data...to the appropriate local station." Col. 20, ll. 29-31. Upon "recognizing and accepting a previous user, the exercise station CPU 160 examines all pertinent data, such as previous weight lifted, previous number of repetitions, time since the equipment was last used, demographic information of the user and what kind of results the user is looking for." Col. 16, ll. 7-13. "The CPU [of the exercise station]...refers to a table lookup to obtain a starting weight [which] is based upon information such as age, sex and direction of movement of the equipment." Col. 36, ll. 26-30. The "CPU 160 updates the weight value to be used in the current session, and provides output to the user, telling him the weight and number of repetitions that he should do during this exercise period. Col. 16, ll. 13-17. In particular, the "exercise station includes a voice generator...which verbally communicates various information such as exercise instructions and performance evaluations to the user" and which "responds to signals received from the CPU 160 to generate selected voice data." Col. 8, ln. 66 to Col. 9, ln. 1; Col. 12, ll. 42-44.

In contrast, amended claim 1 recites, among other things, an "exercise system comprising...a first exercise apparatus of [a] plurality of exercise apparatuses...wherein said first exercise apparatus is adapted for communication with a second exercise apparatus of said plurality of exercise apparatuses such that said control signals from said storage device of said first exercise apparatus can cause a change of an exertion by the user when the user is engaged with said second exercise apparatus during the exercise session, and wherein said voice of said virtual personal trainer of said first exercise apparatus is adapted to provide instructions regarding use of both said first and second exercise apparatuses of said plurality of exercise apparatuses during the exercise session, and wherein said first and said second exercise apparatuses are different types of exercise apparatuses."

As indicated, the exercise system of claim 1 includes first and second exercise apparatuses. The first exercise apparatus of claim 1 is able to communicate with the second exercise apparatus so that control signals stored in the first exercise apparatus are able to control the operation of the second exercise apparatus. In addition, the first exercise apparatus includes the voice of the virtual personal trainer, which is adapted to provide instructions regarding the use of both the first exercise apparatus and the second exercise apparatus. Houston and Dyer do not disclose a first exercise apparatus that includes control signals that can control the operation of a second exercise apparatus. Houston and Dyer also do not disclose a first exercise apparatus that includes the voice of a virtual personal trainer that provides instructions for use of the first exercise apparatus as well as a second exercise apparatus that is of a different type than the first. Rather, Houston merely discloses a single exercise device, while each of Dyer's exercise stations controls itself and includes its own voice generator for providing information to the user of that particular exercise station.

Accordingly, Applicant respectively submits that independent claim 1 is not disclosed in Dyer or Houston, nor is it an obvious variation of the devices disclosed in Houston and Dyer. Since dependent claims 2-5 depend from independent claim 1, and therefore, include the elements of independent claim 1, Applicant respectfully submits that for at least the foregoing reasons, dependent claims 2-5 are neither disclosed by nor obvious variations of Dyer or Houston. It is, therefore, requested that the rejection under 35 U.S.C. § 103(a) to claims 1-5 be reconsidered and removed.

In the Office Action, claim 9 was rejected under 35 U.S.C. § 103(a) as being anticipated by Dyer in view of Mertesdorf. Applicant submits that claim 9 is not anticipated by Mertesdorf.

By virtue of its dependence from independent claim 1, dependent claim 9 includes the elements of independent claim 1. As discussed above, Dyer and Houston fail to disclose the elements of independent claim 1. Furthermore, it has not been established that Mertesdorf remedies the identified deficiencies of Houston and Dyer. Applicant, therefore, respectfully submits that for at least the foregoing reasons, dependent claim 9 is neither disclosed by nor an obvious variation of Houston, Dyer, or Mertesdorf. Thus, reconsideration and removal of the rejection under 35 U.S.C. § 103(a) to claim 9 is hereby requested.

Rejections Under 35 U.S.C. § 102

In the Office Action, claims 6-8 and 10-20 were rejected under 35 U.S.C. § 102(b) as being anticipated by Dyer. Applicant submits that claims 6-8 and 10-20 are not anticipated by Dyer.

Claims 6 and 15 recite similar elements to those of claim 1 relating to the an exercise apparatus being adapted to communicate control signals to a second exercise apparatus to control the operation of the second exercise apparatus during an exercise session. For example, claims 6 recites "said exercise apparatus is adapted to communicate said control signals to a second exercise apparatus of the plurality of exercise apparatus such that said control signals from said exercise apparatus are able to cause a change of an exertion by the user when the user is engaged with said second exercise apparatus during the exercise session." Similarly, claim 15 recites "said internal circuitry of said first exercise apparatus being in communication with said second exercise apparatus such that said first exercise apparatus is able to control at least one operating parameter of said second exercise apparatus by communicating said control signals to said second exercise apparatus."

Claims 6 and 15 also recite elements relating the a voice of a virtual personal trainer of a first exercise apparatus being capable of providing instructions regarding use of both the first exercise apparatus and a second exercise apparatus during a exercise session. Claim 6 recites a "voice of a virtual personal trainer of said exercise apparatus being capable of providing instructions regarding use of at least two exercise apparatuses of said plurality of exercise apparatuses during the exercise session," and claim 15 recites a "voice of a virtual personal

trainer of said first exercise apparatus being capable of providing instructions regarding use of both said first and second exercise apparatuses during the exercise session such that the user can exercise on a variety of different exercise apparatuses with the accompaniment of said voice of a virtual personal trainer."

As discussed above with reference to claims 1-5, Dyer does not disclose a first exercise apparatus that is able to communicate control signals to a second exercise apparatus to control the operation of the second exercise apparatus. As also discussed above, Dyer does not disclose a voice of a virtual personal trainer from a first exercise apparatus providing instructions for the first exercise apparatus as well as a second exercise apparatus that is of a different type than the first. Rather, as noted, Dyer's exercise stations control themselves and include their own voice generator for providing information to the user of that particular exercise station.

Accordingly, Applicant respectfully submits that independent claims 6 and 15 are neither disclosed in Dyer, nor obvious variations of the device disclosed therein. Since dependent claims 7-8, 10-14, and 16-20 depend from independent claims 6 and 15 respectively, and therefore, include the elements of their respective independent claims, Applicant respectfully submits that for at least the foregoing reasons, dependent claims 7-8, 10-14, and 16-20 are neither disclosed by nor obvious variations of Dyer. It is, therefore, requested that the rejection under 35 U.S.C. § 102(b) to claims 6-8 and 10-20 be reconsidered and removed.

CONCLUSION

By this paper pending claims 1, 6, and 15 have been amended. Claims 1-20 are pending and should be in condition for allowance. Reconsideration and allowance of the above-identified claims are now respectfully requested.

The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to Deposit Account No. 23-3178: (1) any filing fees required under 37 CFR § 1.16; (2) any patent application and reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37 CFR § 1.20. In addition, if any additional extension of time is required, which has not otherwise been requested, please consider this a petition therefore and charge any additional fees that may be required to Deposit Account No. 23-3178.

In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 13th day of March, 2009.

Respectfully submitted,

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